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Via Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: In re Partitioning, Disaggregation, and Leasing of Spectrum, WT Docket No. 19-38
Comments of the American Petroleum Institute

Dear Ms. Dortch:

The American Petroleum Institute (“API”), submits these brief comments in response to the Commission’s above reference Notice of Proposed Rulemaking seeking comment on proposals to encourage spectrum leasing, partitioning, and disaggregation of spectrum to small entities. API supports the Commission’s efforts to make more intensive use of existing spectrum resources.

API member companies operate large telecommunication networks, many of which are wireless in nature. These private wireless solutions are necessary because as Critical Infrastructure (CII), our members operate in areas where commercial wireless service may be inadequate or non-existent. Spectrum covering these areas often is actually assigned to licensees, however, because licenses are typically allocated according to large service areas, rural and remote areas remain underserved even while urban areas receive service. Consequently, API members support simple partitioning, disaggregation, or leasing rules that provide incentives for reasonable spectrum options, especially in rural areas. This would help accelerate digitally transforming the O&G industry by enabling remote capabilities and faster data transport.

Based on the NPRM, API offers the following input:

- 1) Although the MOBILE NOW act does not include CII entities, such as API’s members, in its definition of “Covered Small Carrier”, we believe it is in the public interest for the Commission to include CII as a beneficiary of incentives to encourage partitioning, disaggregation, or leasing.

CII entities are pursuing the use of many of the same core technologies used by Covered Small Carriers, albeit with different service objectives. These objectives bring advanced

telecommunications to enterprise facilities and industrial IOT devices, instead of consumer products. However, these operations, including those of Oil & Gas companies and utilities, are critical to rural areas for many economic as well as safety reasons. Consequently, rules that promote the use of RF spectrum to improve the effectiveness and reliability of CII operations are consistent with public interest in these areas.

- 2) API believes the Commission should provide a positive incentive for larger carriers/licensees rather than punitive consequences to stimulate the lease of unused spectrum at a reasonable rate. A reward of bidding credits, or the ability of smaller entities to buy discounted bidding credits and transfer them to larger licensees as payment for spectrum sales, may prove a more effective incentive.

Our membership has reported that efforts to acquire spectrum from major telecommunication carriers have not been effective due to several factors. Some reasons include:

- a) Encumbrance. A reluctance by the carriers to encumber their unused spectrum based on competitive matters. Large carriers are often reluctant to even discuss sale of their spectrum holdings. When they do, transactional terms frequently seek to retain an unacceptable high level of control in the carrier (for example, the right to terminate a lease if the carrier determines the spectrum is necessary for its operations).
- b) High Cost. An unreasonably high cost valuation associated with rural spectrum that is based on Pops/MHz pricing established for large urban areas.
- c) Transactional Costs. The high level of overhead associated with these transactions versus the benefits to the licensee. Carriers are not in the spectrum sale and leasing business and the costs of entering into and managing such transactions is not seen as a core business objective.

Any incentive we feel the Commission offers must address these concerns to be effective.

- 3) With regards to modified or reduced performance requirements, we believe the Commission needs to certify the lessee's build plan meets a "reasonable standard" for the leased/partitioned area when the Commission approves the arrangement. Otherwise, API feels that the ability to meet a reduced performance requirement may be abused.

Having the build requirements pre-approved for the leasing/partitioning arrangement would also guarantee that the original spectrum owner's interest in the spectrum will be far less at risk, since any reduced leased area buildout requirements will be understood for the separated area. While there would be subjectivity in approving the actual requirements, we feel that this would allow the Commission some needed flexibility, especially for remote areas.

- 4) Finally, API feels that a long-term solution to the unused spectrum availability is for the Commission to offer smaller license areas initially, including spectrum at the sub-County level. This will allow spectrum in the primary market to be better targeted to those entities that will put it to good use. This proactively "pre-partitioning" licenses prior to auction may better serve today's spectrum marketplace and enable more varied use cases.

API urges the Commission to consider our suggestions in order to make it more likely that CII entities including API's O&G members, will be able to make cost-effective use of unused spectrum through leasing, disaggregation, or spectrum partitioning.

Respectfully submitted,

American Petroleum Institute

/s/ James Crandall

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